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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052523
Party	Defendant Dalps & Leisure Products Supply Corporation
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

<i>In re Registration No. 2,542,903 for the mark IRON BODY & Design</i> FORMATIC XPRESSIONS, INC. Petitioner v. DALPS & LEISURE PRODUCTS SUPPLY CORPORATION Respondent	Cancellation No. 92-052,523 <u>Answer to Petition to Cancel</u>
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Respondent, DALPS & Leisure Products Supply Corporation (“Respondent”), by and through its counsel, hereby responds to the Petition for Cancellation (“Petition”) filed by Petitioner, Formatic Xpressions, LLC (“Petitioner”).

In response to the introductory paragraph of the Petition, Respondent denies that its registration for the mark IRON BODY & Design (Reg. No. 2,542,903) (“Registration”) damages Petitioner. Respondent is without sufficient information to admit or deny the remaining allegations in the introductory paragraph, and on that basis denies them.

1. Respondent admits the allegations in Paragraph 1 of the Petition.
2. Responding to the allegations in Paragraph 2 of the Petition, Respondent admits that the U.S. Patent and Trademark Office (“PTO”) database currently shows Petitioner as the owner of an intent-to-use application for IRON BODY (Serial No. 77/709,178) for “clothing, namely, shirts, t-shirts, sweatshirts, sweatpants, headwear, and martial arts uniforms” in Class 25 and “martial arts equipment, namely, punching bags, bag gloves and hand wraps” in Class 28, which was filed on April 7, 2009.

3. Respondent is without sufficient information to admit or deny the allegations in Paragraph 3 of the Petition, and on that basis denies them. Respondent denies that Petitioner has standing to file this cancellation action.

4. Responding to the allegations in Paragraph 4 of the Petition, Respondent admits that it owns the *prima facie* exclusive right to use the IRON BODY trademark and will continue to own those rights if its registration is not cancelled. Respondent denies that its Registration is a source of damage or injury to Petitioner.

5. Responding to the allegations in Paragraph 5 of the Petition, respondent admits that its President, Lawrence Hao, signed the application for its Registration on March 15, 2001 and that the application was submitted on April 4, 2001.

6. Responding to the allegations in Paragraph 6 of the Petition, Respondent denies that it is not using and has never used its IRON BODY & Design trademark on the goods identified in the Registration. Respondent is without sufficient information to admit or deny the remaining allegations in Paragraph 6 of the Petition and on that basis denies them.

7. Respondent denies the allegations in Paragraph 7 of the Petition.

8. Respondent denies the allegations in Paragraph 8 of the Petition.

9. Respondent denies the allegations in Paragraph 9 of the Petition.

10. Respondent denies the allegations in Paragraph 10 of the Petition.

11. Respondent denies the allegations in Paragraph 11 of the Petition.

12. Responding to the allegations in Paragraph 12 of the Petition, Respondent admits that its former attorney, Bruce Troxell, signed and submitted the Section 8 declaration on February 25, 2008 and that the statement declares use of the goods identified in the Registration.

13. Respondent denies the allegations in Paragraph 13 of the Petition.

14. Respondent denies the allegations in Paragraph 14 of the Petition.

15. Respondent denies the allegations in Paragraph 15 of the Petition.

16. Respondent denies the allegations in Paragraph 16 of the Petition.

17. Respondent denies the allegations in Paragraph 17 of the Petition.

18. Respondent denies the allegations in Paragraph 18 of the Petition.

19. Respondent denies the allegations in Paragraph 19 of the Petition.

AFFIRMATIVE DEFENSES

1. Failure to State a Claim. Petitioner has failed to allege sufficient grounds to support the Petition.
2. Lack of Standing. Petitioner does not have standing to file the Petition.
3. Acquiescence. The Petition is barred by Petitioner's acquiescence.
4. Laches. The Petition is barred by laches.
5. Waiver and Estoppel. The Petition is barred by waiver and estoppel.
6. Prior use and registration. Respondent began using and registered its IRON BODY & Design trademark before Petitioner filed its application for the IRON BODY trademark.

WHEREFORE, Respondent prays that the Petition be dismissed in its entirety.

Date: November 15, 2010

Respectfully submitted,

/Raphael A. Gutierrez/
Raphael A. Gutierrez

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Certificate of Electronic Transmission

The undersigned hereby certifies that this document is being transmitted electronically through ESTTA pursuant to 37 C.F.R. §2.195(a) on this 15th day of November, 2010.

/Raphael A. Gutiérrez /
Raphael A. Gutiérrez
Jackson Intellectual Property Group, PLLC

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record by email (pursuant to the parties' agreement) on this 15th of November, 2010.

/Raphael A. Gutiérrez /

Raphael A. Gutiérrez

Jackson Intellectual Property Group, PLLC